

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI  
BEFORE SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 2964/Del/2025  
(Assessment Year: 2016-17)

DCIT, Central Circle-26, New Delhi	Vs.	Anil Kumar Jain, 4733/22, Prakash Deep Building, 2 <sup>nd</sup> Floor, Daryaganj, New Delhi
(Appellant)		(Respondent)
		<b>PAN: AAGPJ2715D</b>

Assessee by :	Shri Prem Lamba, CA
Revenue by:	Shri Om Prakash, Sr. DR
Date of Hearing	06/11/2025
Date of pronouncement	21/01/2026

**ORDER**

**PER VIMAL KUMAR, J.M.**

1. The appeal filed by the Department of Revenue is against the order dated 23.01.2025 by the Id. Commissioner of Income Tax (Appeals)-29, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') arising out of penalty order dated 17.03.2022 by the Id AO/ Deputy Commissioner of Income Tax, Central Circle-26, Delhi u/s 271(1)(c) of the Act for AY 2016-17.

2. Brief facts of the case are that the assessee filed return of income on 30.09.2016 declaring total income of Rs. 81,12,900/-. During the course of search in case of Jain Group some incriminating documents relating to assessee were found. A survey was conducted at business address of the assessee and his family members for AY

2016-17. Reassessment u/s 147/148 r.w.s. 143(3) was completed on 08.12.2019 at a total income of Rs. 4,61,12,900/- after making addition of Rs. 3,80,00,000/- on account of unaccounted income in the hands of the assessee. Penalty u/s 271(1)(c) was initiated vide notices dated 20.12.2019. No reply was received. Another notices u/s 271(1)(c) dated 25.01.2021 and 27.01.2022 were issued. The assessee submitted replies dated 02.02.2022 and 28.02.2022. On completion of proceedings, penalty order dated 17.03.2022 was passed by the Id AO. Against the order dated 17.03.2022 by the Id AO, the assessee filed appeal before the Id CIT(A), which was allowed vide order dated 23.01.2025.

3. Being aggrieved, the appellant/Department of Revenue preferred the present appeal on following grounds:-

*"1. On the facts and circumstances of the case the order passes by the Ld. Commissioner of Income Tax (A) levying penalty under section 271(1)(c) is bad both in the eyes of law & on facts.*

*2. On the facts and circumstances of the case, the Ld Commissioner of income Tax (A) has erred that all the facts relating to the same have been disclosed & as such no penalty can be levied even under explanation-1 to section 271(1)(c) of the Act*

*3. On the facts and circumstances of the case, the Ld Commissioner of Income Tax (A) has erred in levying penalty u/s 271(1) (c) as no finding has been given on merit regarding concealment in the order passed by the A.O.*

*4. On the facts and circumstances of the case, the Ld. Commissioner of Income Tax (A) has erred in ignoring the contention of the appellant that penalty proceedings are independent proceedings and as such the claim of the expenditure need to be examined again of the light of the material and explanation being produced and referred to by the appellant.*

*5. That having regard to the facts and circumstances of the case order imposing penalty u/s 271(1)(c) is bad in law, being beyond*

*jurisdiction and barred by limitation and contrary to the principles of natural justice and has been passed by recording incorrect facts and findings and without giving adequate opportunity to the assessee and the same is not sustainable on various legal and factual grounds..*

*6. That having regard to the facts and circumstances of the case, Ld. Commissioner of Income Tax (A) has erred in law and on facts in imposing penalty for concealing the particulars of income u/s 271(1)(c) of the Income Tax Act on income enhanced in the order dated 12/08/2021 and the appeal against enhancement of income is pending before the Hon'ble Income Tax Appellate Tribunal.*

*7. On the facts and circumstances of the case, Ld. Commissioner of Income Tax (A) has erred in law and on facts in imposing penalty at the rate of 100% of tax on the enhanced income of Rs 7,50,000/- that too without recording mandatory satisfaction as per law.*

*8. The appellant craves leave to add, amend or alter any of the grounds of appeal."*

4. The Id Departmental Representative submitted that the Id CIT(A) erred in setting aside the penalty order ignoring the fact that penalty was levied as there was concealment of expenditure by the assessee.

5. The Id Authorised Representative for assessee submitted that Hon'ble ITAT in ITA No. 1413 & 435/Del/2021 titled Anil Kumar Jain Vs. DCIT in order dated 03.12.2024 had set aside the assessment order dated 08.12.2019.

6. From examination of the record and in light of aforesaid rival contentions, it is crystal clear that the Id CIT(A) vide order dated 23.01.2025 had set aside the penalty order dated 17.03.2022 by Id AO since ITAT vide order dated 03.12.2024 in ITA No. 1413 & 435/Del/2021 titled Anil Kumar Jain Vs. DCIT had set aside the quantum assessment on invalid assumption of jurisdiction u/s 147 of

the Act. Therefore, the grounds of appeal being devoid of merit are untenable.

7. In the result, the appeal filed by the department of revenue is dismissed.

Order pronounced in the open court on 21/01/2026.

Sd/-

sd/-

**(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

Dated: 21 /01/2026  
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi